

ATTACHMENT Q

**RECEIVING WATER LIMITATIONS
STATUS REPORT**

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Submitted by
County of Los Angeles Department of Public Works
On behalf of the Los Angeles County Flood Control District
Reporting Period July 1, 2012 to June 30, 2013

December 15, 2013

I. Introduction

The 2012 Los Angeles County Municipal Separate Storm Sewer System NPDES Permit (MS4 Permit) provides that Permittees electing to develop a Watershed Management Program (WMP) or Enhanced Watershed Management Program (EWMP) shall submit an Integrated Monitoring Program (IMP) or Coordinated Integrated Monitoring Program (CIMP) with their draft WMP or EWMP. The Los Angeles County Flood Control District (LACFCD) has filed Notices of Intent to participate in several WMPs and EWMPs and will be submitting IMPs or CIMPs with those drafts.

Under the 2012 permit, it is unclear whether Receiving Water Limitation (RWL) status reports should be submitted pending the approval of the IMPs or CIMPs. The permit no longer requires the submittal of RWL Compliance reports or subsequent status reports with respect to those compliance reports. Instead, the permit now calls for an Integrated Monitoring Compliance report when there is a determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable receiving water limitation. As set forth in the RWL Compliance Reports submitted under the 2001 permit, there has been no such determination. In addition, the current permit's Integrated Monitoring Compliance report requires different information than the RWL Compliance and Status Reports submitted under the 2001 permit.

Although it appears that submittal of an RWL Status Report is no longer required, because of the uncertainty that surrounds this issue, the LACFCD is submitting this RWL Status Report during this transition period between the termination of the 2001 permit and its monitoring program, and the Regional Board Executive Officer's approval of the IMPs and CIMPs under the 2012 permit.

The RWL Status Report in Sections II and III below provides the status of the LACFCD's RWL Compliance Reports from 2011 and 2007, respectively.

II. Status of 2011 RWL Compliance Report

The 2011 RWL Compliance Report was submitted voluntarily as a result of a July 13, 2011, Ninth Circuit Court of Appeal opinion in which the court found that the engineered flood control channels at the monitoring stations in the Los Angeles River (LAR) and San Gabriel River (SGR) were distinct from the rivers themselves and that there was a discharge at an unidentified location downstream from each of those monitoring stations. The court found that the LACFCD was responsible for those discharges even though it did not create, generate, or add the pollutants measured at the monitoring stations.

During the current reporting period, the United States Supreme Court reversed the Ninth Circuit's opinion, holding that the channels were not distinct from the rivers and that there was no discharge when water moved through the Los Angeles or San Gabriel Rivers.

The Ninth Circuit's 2011 opinion was not a determination by the LACFCD or the Regional Water Board that discharges were causing or contributing to an exceedance of an applicable water quality standard. Therefore, no RWL Compliance Report was required to address these discharges. Nevertheless, because the LACFCD had been notified of the Ninth Circuit's 2011 opinion, the LACFCD had voluntarily submitted a RWL Compliance Report at that time. In light of the United States Supreme Court decision, it is now clear that no report was required.

The Regional Board is advised that exceedances at the LAR and SGR mass emission stations have been described in the annual monitoring reports. Exceedances from July 2011 through June 2013 at the LAR MES include fecal coliform, dissolved copper, dissolved lead, dissolved zinc, pH, E. coli, and cyanide. Exceedances from July 2011 through June 2013 at the SGR MES include dissolved copper, dissolved zinc, fecal coliforms, pH, E. coli, and cyanide.

LACFCD storm drains and some city owned drains service the land areas within the LAR and SGR Watershed boundaries. The land area, however, is not under the jurisdiction of the LACFCD. The LACFCD does not generate the pollutants detected at the mass emission stations. LACFCD drains do not create urban runoff and any activities specifically affecting stormwater runoff, dry weather flows, or pollution sources fall within the jurisdiction of other public entities.

Accordingly, the parties who created, generated, or added the pollutants to the water, or who otherwise have land use authority over the areas contributing the pollutants are the entities who most appropriately address exceedances, not the LACFCD.

III. Status of 2007 RWL Compliance Report

As stated in the 2007 RWL Compliance Report, there was no evidence showing that LACFCD discharges caused or contributed to an exceedance of an applicable water quality standard and the report was submitted voluntarily. As such, the submission of this Status Report should not be construed to mean that the LACFCD was the source of any exceedance of any applicable water quality standard, and no such inference can be drawn.

The 2007 RWL Compliance Report was submitted voluntarily to assist the Regional Board in identifying the sources of exceedances. In doing so, the LACFCD proposed a two-pronged approach to better understand the cause-effect relationship between management actions and receiving water quality:

- 1) Establish quantitative program effectiveness measures as part of the new MS4 Permit, and
- 2) Establish a countywide monitoring program to better understand the relative urban runoff contribution to the receiving water problems.

Quantitative Program Effectiveness Measures

The LACFCD continues to participate in the CASQA Program Effectiveness Assessment Subcommittee. The 2012 MS4 Permit includes provisions on the effectiveness of Storm Water Control Measures, which range from assessing the water quality of discharges at outfalls to analyzing wet-weather receiving water quality within the jurisdiction of each Permittee. Additionally, each Permittee that elects to participate in a WMP or EWMP must implement an adaptive management process to assess progress towards achieving improved water quality and make necessary adjustments to improve effectiveness.

Automated Regional Stormwater Monitoring Program

The 2007 RWL Compliance Report proposed the design and implementation of a monitoring program to better understand the relative urban runoff contribution to the receiving water problems. The goal of the proposed monitoring program was to assist in better understanding the sources of urban runoff pollution and how to address them.

Environmental permit applications for a pilot program for 19 sites were submitted to the then California Department of Fish and Game (DFG) and Coastal Commission in January 2011. Design drawings were finalized in March 2011 and on March 21, 2011, the DFG authorized the work for the 19 monitoring stations. The Coastal Commission processed a waiver for the Malibu Creek Monitoring Station on May 12, 2011.

LACFCD completed negotiations with a consultant for the implementation of a pilot program. The Notice to Proceed was issued in June 2011, and the consultant began implementing the pilot program. In May 2012, construction of 8 of the 19 originally proposed sites was cancelled due to permitting issues. Construction and installation of equipment and instruments for the remaining 11 sites have been completed and these sites are currently in the testing phase of the project.